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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,592	05/25/2001	James Ching-Shau Yik	64747/12891	4154
23380	7590	11/19/2004	EXAMINER	
TUCKER, ELLIS & WEST LLP 1150 HUNTINGTON BUILDING 925 EUCLID AVENUE CLEVELAND, OH 44115-1475			DUONG, DUC T	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,592

Applicant(s)YIK ET AL. **Examiner**

Duc T. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-13 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-3 and 7-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Bordonaro et al (U.S. Patent 6,798,775 B1).

Regarding to claim 1, Bordonaro discloses a data network node 106/114 enforcing flow control forwarding data traffic over data networking facilities of private data networking environment (Fig. 1 col. 6 lines 27-40), the data network node comprising at least one input port 502-510 (Fig. 5A col. 6 lines 63-67 and col. 7 lines 1-5); and a service level specifier 520 associated with at least one input port specifying predetermined level of service (priority) the conveyance of public access data traffic

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(Fig. 5A col. 7 lines 16-29; noted the public access data traffic is identified as VLAN packet).

Regarding to claim 2, Bordonaro discloses the service level specifier further designates the at least one input port as an input port conveying public access data traffic 502-510 (Fig. 5A col. 6 lines 63-67 and col. 7 lines 1-5).

Regarding to claim 3, Bordonaro discloses the data network node is a data-switching node having a plurality of input ports 13010 (Fig. 13 col. 12 lines 47-55).

Regarding to claim 7, Bordonaro discloses a method of enforcing flow control forwarding data traffic over data networking facilities of private data networking environment, the method comprising selectively assigning a predetermined level of service (priority) to Payload Data Unit PDU 940 (Fig. 9) if an input port 502-510 on which the PDU was received is designated as conveying public access data traffic (Fig. 5A col. 7 lines 16-29; noted the ports 502-510 is used for transporting VLAN packet, which herein is identified as public access data traffic); and forwarding 530 the PDU according to the level of service associated therewith (Fig. 5A col. 8 lines 17-20).

Regarding to claim 8, Bordonaro discloses prior to assigning the predetermined level of service to the PDU, determine the input port on which the PDU was received from a plurality of input ports of a multi-port data network (Fig. 5A col. 7 lines 11-14).

Regarding to claims 9, 11, and 13, Bordonaro discloses querying a database 13,020 (Fig. 13) using as a key an input port identifier (VLAN ID) associated with the input port (Fig. 5A col. 7 lines 14-17).

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Regarding to claim 10, Bordonaro discloses determining the access type (VLAN color) associated with the input port (Fig. 6 col. 8 lines 21-30).

Regarding to claim 12, Bordonaro discloses prior to assigning a predetermined level of service to the PDU, determine the predetermined level of service (Fig. 5A col. 7 lines 16-29).

Allowable Subject Matter

3. Claims 4-6 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-Th (9:00 AM-6:00 PM).

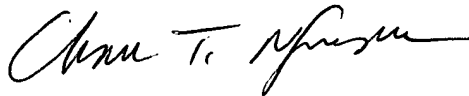
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DD

DD



CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
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